

(ii) When information that is the subject of a statement of dispute is subsequently disclosed, the OSD Component's designated official shall note which information is disputed and provide a copy of the individual's statement.

(2) The OSD Component shall include a brief summary of its reasons for not making a correction when disclosing disputed information. Such statement shall normally be limited to the reasons given to the individual for not amending the record.

(3) Copies of the OSD Component's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in paragraph (c)(3)(iii) of this section.

(e) *Penalties*—(1) *Civil action*. (i) An individual may file a civil suit against the United States and may recover damages, for:

(A) Refusal to amend a record.

(B) Improper denial of the access to a record.

(C) Failure to maintain an accurate, relevant, timely, and complete record that is used to make determinations adverse to the individual.

(ii) An individual may also file a suit against the United States for failure to implement a provision of the Privacy Act when such failure leads to an adverse determination.

(iii) If the individual's suit is upheld, the court may direct the United States to pay the court costs and attorney's fees.

(2) *Criminal action*. (i) Criminal penalties may be imposed against an OSD officer or employee for certain offenses listed in section (i) of the Privacy Act, as follows: willful unauthorized disclosure of protected information in the records; failure to publish a notice of the existence of a record system in the FEDERAL REGISTER; requesting or gaining access to the individual's record under false pretenses.

(ii) An OSD officer or employee may be fine up to \$5,000 for a violation as outlined in paragraph (e)(2)(i) of this section.

(3) *Litigation status sheet*. Whenever a complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the Department of Defense, a DoD compo-

nent, or any DoD employee, the responsible system manager shall promptly notify the Defense Privacy Office. The litigation status sheet in DoD 5400.II-R provides a standard format for this notification. (The initial litigation status sheet shall, as a minimum, provide the information required by items 1. through 6.) A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the Defense Privacy Office with the litigation status sheet reporting that judgment or opinion.

(f) *Computer matching programs*. Paragraph B of Chapter 11 of DoD 5400.11-R prescribes that all requests for participation in a matching program (either as a matching agency or a source agency) be submitted to the Defense Privacy Office for review and compliance. OSD Components shall submit these request through the Directives and Records Division.

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### §311.7 Information requirements.

The Defense Privacy Office shall establish requirements and deadlines for DoD privacy reports. These reports shall be licensed in accordance with DoD Directive 8910.1.<sup>5</sup>

### §311.8 Procedures for exemptions.

(a) *General information*. The Secretary of Defense designates those Office of the Secretary of Defense (OSD) systems of records which will be exempt from certain provisions of the Privacy Act. There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If an OSD Component originates a new system of records for which it proposes an exemption, or if it proposes an additional or new exemption for an existing system of records, it shall submit the recommended exemption with the records system notice as outlined in

<sup>5</sup> See footnote 2 to §311.1.